Atty. Dkt. No. 050251-0131



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

plicant:

Gray et al.

Title:

SURGICAL DEVICE WITH MALLEABLE SHAFT

Appl. No.:

09/432,523

Filing Date:

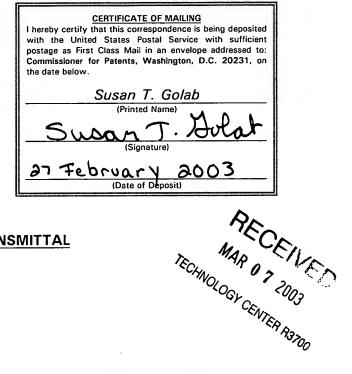
3 November 1999

Examiner:

D. Isabella

Art Unit:

3731



## AMENDMENT TRANSMITTAL

Commissioner for Patents Box Non-Fee Amendment Washington, D.C. 20231

Sir:

Transmitted herewith is the Amendment of the above-identified application is response to the Office Action dated 5 July 2002.

- Small Entity status under 37 C.F.R. § 1.9 and § 1.27 has been established by a [ ] Small Entity statement previously submitted.
- Information Disclosure Statement
- The fee required for additional claims is calculated below: [X]

	Claims As Amended		Previously Paid For		Extra Claim Prese	s	Rate		Additional Claims Fee
Total Claims:	21	_	52	=	0	х	\$18.00	=	\$0.00
Independents:	2	_	8	=	0	x	\$80.00	=	\$0.00
First presentation of any Multiple Dependent Claims:					+	\$270.00	=	\$0.00	
						CLAIMS	FEE TOTAL:	=	\$0.00

Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

Atty. Dkt. No. 050251-0131

[]	Extension for response filed within the first month:	\$110.00	\$0.00
[]	Extension for response filed within the second month:	\$390.00	\$0.00
[]	Extension for response filed within the third month:	\$890.00	\$0.00
[]	Extension for response filed within the fourth month:	\$1,390.00	\$0.00
[]	Extension for response filed within the fifth month:	\$1,890.00	\$0.00
	EXTENSION	N FEE TOTAL:	\$0.00
	CLAIMS AND EXTENSION	\$0.00	
[]	Small Entity Fees Apply (subtract	½ of above):	\$0.00
		TOTAL FEE:	\$0.00

- [ ] Please charge Deposit Account No. 06-1450 in the amount of \$0.00. A duplicate copy of this transmittal is enclosed.
- [X] The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1450. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1450.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date

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FOLEY & LARDNER

One IBM Plaza, Suite 3300

330 North Wabash

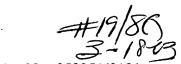
Chicago, Illinois 60611-3608

Telephone: 312.755.2610 Facsimile: 312.755.1925

Paul E. Schaafsma

Attorney for Applicant

Registration No. 32,664



Atty. Dkt. No. 050251/0131

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient

postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C.

Susan T. Golab

(Printed Name)

(Signature)

(Date of Deposit)

ebruary

20231, on the date below.

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Title:

SURGICAL DEVICE WITH

MALLEABLE SHAFT

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3 November 1999

Examiner:

David J. Isabella

Art Unit:

3738

<u>REPLY</u>

Assistant Commissioner for Patents Washington, D.C. 20231

MAR 0 7 2003
TECHNOLOGY CENTER R3700

Sir:

This Reply is responsive to the Office Action dated 18 December 2002 concerning the above-referenced patent application.

## REMARKS

This Reply is in response to the Office Action mailed on 18 December 2002. In that Office Action, claims 37 - 39, 41 and 42 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,871,496 to *Ginn et al.* or U.S. Patent No. 5,749,889 to *Bacich et al.*; claims 37 - 39, 41 and 42 were rejected under 35 U.S.C. § 103 as being obvious in view of U.S. Patent No. 3,915,169 to *McGuire* in further view of U.S. Patent No. 5,749,889 to *Bacich et al.* or U.S. Patent No. 5,871,496 to *Ginn et al.*; and claims 37 - 39, 41 and 42 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,782,834 to *Lucey et al.* All these rejections are respectfully traversed.

In addition, the Office Action further objected to claim 37 as being indefinite for the use of "vice versa." Websters New Collegiate Dictionary defines "vice versa" as "with the order changed." The language in claim 37 to which the Office Action objects is, "the first and second jaws of the tissue clamp assembly are moved between an open spaced apart position and closed

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